

DOCKET NO.: 282734US8/khi

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

GROUP: 2179

Georg MICHELITSCH, et al.

SERIAL NO: 10/726,298

EXAMINER: TERMANINI, SAMIR

FILED: December 1, 2003

FOR: METHOD FOR OPERATING A DISPLAY DEVICE

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

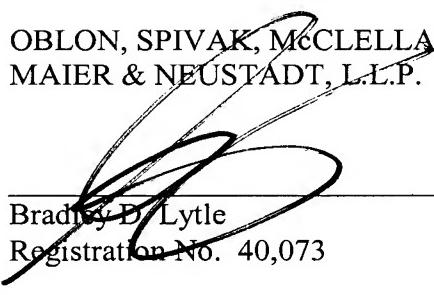
This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s). No more than five (5) pages are provided.

I am the attorney or agent of record.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.



Bradley D. Lytle
Registration No. 40,073

Customer Number

22850

Tel. (703) 413-3000
Fax. (703) 413-2220
(OSMMN 07/09)

Andrew T. Harry
Registration No. 56,959

DOCKET NO: 282734US8

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
GEORG MICHELITSCH, ET AL. : EXAMINER: TERMANINI
SERIAL NO: 10/726,298 :
FILED: DECEMBER 1, 2003 : GROUP ART UNIT: 2179
FOR: METHOD FOR OPERATING A :
DISPLAY DEVICE :

REMARKS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Claims 15-28 are pending in the present application. Claims 15 and 19-20 are independent. In the Final Office Action of November 27, 2009 (herein FA), Claims 15-16, 19-22 and 25 are rejected under 35 U.S.C. § 103(a) as unpatentable over Lee (U.S. 2003/0234799) in view of Fedorovskaya et al. (U.S. 2003/0156305, herein Fedorovskaya) and Stern et al. (U.S. 2002/0047828, herein Stern).

Applicants respectfully traverse the above noted rejection under 35 U.S.C. § 103, as independent Claims 15 and 19-20 recite novel features clearly not taught or rendered obvious by the applied references. Independent Claim 15, for example, recites, in part, a method for operating a display device, comprising:

*capturing an image of a user ...
deriving a view angle of the user with respect to the display from said
[captured] image of the user;
changing a display mode for displaying display information on said
display ... to compensate for the view angle of the user ...*

Independent Claims 19 and 20 recite similar features.

As an initial matter, the Advisory Action of February 19, 2010 (herein, the AA), asserts that “the broadest reasonable interpretation of [the above-noted] limitation (in view of its specification) does not require a previously captured image.” Applicants respectfully traverse this assertion, as Claim 15 specifically recites *capturing an image of a user*, deriving the view angle of the user with respect to the display *from said image of the user*, and changing the display mode to compensate for *the* derived view angle of the user. Thus, Claim 15 clearly recites that the features recited in Claim 15 do require a captured image of a user in contrast to the assertion set forth in the AA.

The FA, at p. 5, second paragraph, and p. 18, section 14 (I), maintains the position that Stern discloses “deriving [from a captured image of a user], a view angle of the user with respect to the display”. More particularly, the FA relies on paragraph [0043] of Stern as disclosing this claimed feature.

Paragraph [0043] of Stern describes that his system includes “a leveling device for proper positioning of the individual in front of the computer. LEDs may be incorporated into the system in order to determine the correct viewing angle of the individual.”

As noted above, Claim 15 recites “*deriving a view angle of the user with respect to the display from said* [captured] *image of the user*”. Thus, the view angle of the user is derived (e.g., determined, measured, etc.) from a previously captured image of the user. In clear contrast, paragraph [0043] of Stern fails to disclose that the “leveling device” uses a previously captured image of a user, whatsoever.

Paragraph [0043] of Stern also describes that an LED may be incorporated into the system in order to determine the correct viewing angle for the individual. By definition, however, an LED emits light and is unsuitable for capturing an image of the user or for using a captured image

Stern, therefore, fails to teach or suggest “*deriving a view angle of the user with respect to the display from said [captured] image of the user*”, as recited in Claim 15.

Moreover, neither Fedorovskaya nor Lee discloses deriving a view angle of a user from a captured image. Therefore, even if Lee, Stern and Fedorovskaya were combined, the combined system would still not read on the above noted features recited in Claim 15.

Claim 15 further recites the feature of “*changing a display mode for displaying display information on said display ... to compensate for the view angle of the user*”.

With respect to the arguments presented regarding this feature, the FA further refers, at p. 19 in section (II) of the Response to Arguments Portion, to the following argument presented in the paragraph bridging pp. 8-9 of the Amendment filed July 2, 2009:

In rejecting the claimed feature directed to compensating for the view angle of the user, the Office Action relies on the mechanical apparatus used to control the viewing angle of the monitor described in Stern. Independent Claim 15, however, is amended to recite “changing a display mode for displaying display information on said display ... to compensate for the view angle of the user”. Thus, independent Claim 15 is directed to

The FA then “respectfully points out that Lee was relied upon for teaching the above quoted feature.” P. 4 of the FA, however, concedes that Lee differs from Claim 15 in that “*deriving a view angle of the user ... and the view angle is compensated for*” are not clearly shown. These positions are clearly contradictory.

P. 19 and section (II) of the FA asserts that the above noted claimed feature was previously addressed by quoting the Office Action of April 3, 2009 as asserting:

wherein in said display mode an amount of said displayed information depends on said user position information (“... displaying ratio data storage part 3 according to the distance between a user and the display apparatus ...,” para. [0029]); and displaying said information on said display based on said display mode (“...displaying ratio data, and an image displaying ratio data setting...,” para. [0029]; See also see S9 of Fig. 2).

As noted above, p. 4 of the FA concedes that Lee differs from Claim 15 in that “*deriving a view angle of the user ... and the view angle is compensated for*” are not clearly

Application No. 10/726,298
Reply to Office Action of November 27, 2009 and
Advisory Action of February 19, 2010

shown. At p. 5, the FA then appears to rely on Stern to reject this claimed feature. However, in traversing the arguments presented in the response filed July 2, 2009, with respect to this feature in view of Stern, p. 19 at section (II) in the Response to Arguments of the outstanding FA asserts that Lee was relied upon to reject this claimed feature.

Therefore, the FA contradicts itself and is ambiguous, at best, as to whether Lee or Stern is relied upon to reject the claimed features directed to “changing a display mode for displaying display information on said display … ***to compensate for the view angle of the user***”. Applicants, therefore, respectfully request that the rejection be withdrawn for at least the reasons discussed above.

Nonetheless, Applicants further submit that neither Lee nor Stern teach or suggest “changing a display mode for displaying display information on said display … ***to compensate for the view angle of the user***”, as claimed.

Lee, at paragraph [0029], describes a computer system where a distance sensor senses the distance between a user and a display apparatus. As described at paragraph [0030], an image size adjusting part then adjusts the size of a video signal displayed at the display apparatus when the distance changes. Lee, therefore, describes a system in which a viewer’s viewing distance is compensated for, and fails to teach or suggest “changing a display mode for displaying display information on said display … ***to compensate for the view angle of the user***”, as recited in Claim 15.

Further, paragraph [0044] of Stern describes a mechanical apparatus that controls the height of the monitor and the viewing angle of the monitor. Therefore, the features of Claim 15 differ from Stern in that the display mode (clearly referring to the contents of what is displayed) is changed, whereas Stern changes the monitor’s physical position.

Further, Stern merely describes to “control” the view angle, and is silent on controlling the view angle such that the view angle is changed to compensate for the view

Application No. 10/726,298
Reply to Office Action of November 27, 2009 and
Advisory Action of February 19, 2010

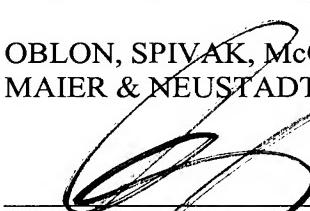
angle of the user. Instead Stern's mechanical apparatus controlling the viewing angle also controls the height of the monitor. It is obvious that in this context controlling the viewing angle is done to compensate the effect of the height control, without further derivation of the actual view angle or compensation of the view angle (e.g., change).

Therefore, even if Stern, Fedorovskaya and Lee were combined, the combination of these references fail to disclose "changing a display mode for displaying display information on said display ... ***to compensate for the view angle of the user***", as recited in independent Claim 15.

In summary, the combination of Stern, Fedorovskaya and Lee fails to disclose a method for operating a display device, the method including "***capturing an image of a user*** ...", "***deriving a view angle of the user with respect to the display from said*** [captured] ***image of the user***" and "changing a display mode for displaying display information on said display ... ***to compensate for the view angle of the user***", as recited in independent Claim 15.

Accordingly, Applicants respectfully request that the rejection of Claims 15 (and the claims that depend therefrom) under 35 U.S.C. § 103 be withdrawn. For substantially similar reasons, it is also submitted that Claims 19 and 20 (and the claims that depend therefrom) patentably define over Lee, Fedorovskaya and Stern.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.P.


Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 07/09)

Andrew T. Harry
Registration No. 56,959